



Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: ARA Environmental Services, Inc.

File: B-254321

Date: August 23, 1993

Charles H. Carpenter, Esq., Pepper, Hamilton & Scheetz, for the protester.

Paul Warring, Esq., Department of the Air Force, for the agency.

Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency anticipates acquiring services from the National Institute for the Severely Handicapped pursuant to the Javits-Wagner-O'Day Act will not be considered by the General Accounting Office.

DECISION

ARA Environmental Services, Inc. protests the decision of the United States Soldiers' & Airmen's Home (USSAH) to award a contract for custodial services through the National Institute for the Severely Handicapped (NISH) to Davis Memorial Goodwill Industries. ARA protests that the agency has improperly made a noncompetitive source selection in lieu of exercising an option on ARA's existing contract for the same services.

We dismiss the protest.

ARA is the contractor currently providing janitorial and custodial services for USSAH. By letter dated July 19, 1993, USSAH notified ARA that its option would not be exercised and that the agency intended to award a contract to NISH/Davis Memorial Goodwill Industries for the janitorial/custodial services, under the Javits-Wagner-O'Day Act, 41 U.S.C. §§ 46-48c (1988). This Act mandates that certain services, which are placed on a procurement list by the Committee for Purchase from People Who are Blind or Severely Disabled, be procured only from non-profit agencies employing persons who are blind or have other severe

disabilities. ARA complains that an award to NISH/Davis Memorial Goodwill Industries would be improper since the services at issue have not yet been formally placed on the Committee's procurement list.

The agency has advised our Office that no award has been made and that the agency will take no procurement action until the Committee makes a decision regarding the proposed addition to the procurement list of the services at issue. The agency also stated that the Committee intends to make a decision regarding the addition of these services to its procurement list in the next few weeks.

ARA's protest is premature. Protests that merely anticipate allegedly improper agency will not be considered. See Jantec, Inc., B-243192, Mar. 14, 1991, 91-1 CPD ¶ 289. With regard to the decision to add the services at issue to the procurement list, the Committee has exclusive authority to add or delete supplies and services to the list as it deems appropriate. Able Converting Inc., 67 Comp. Gen. 307 (1988), 88-1 CPD ¶ 233; Jantec, Inc., supra. Once an item or service has been added to the procurement list, contracting agencies are required to procure the item directly from the qualified workshops. 41 U.S.C. §§ 46-48c; Federal Acquisition Regulation Part 8.7.

In light of the Committee's exclusive grant of authority under the Act and the agency's obligation to procure listed supplies and services from qualified workshops, our Office would have no basis to object to the agency's award of a contract to a qualified workshop should the Committee decide to add the services at issue to the procurement list. Whether the workshop will comply with the standards of the Act in performing the services is for consideration by the Committee and agency, and not our Office under its bid protest function. Jantec, Inc., supra.

The protest is dismissed.

A handwritten signature in black ink, appearing to read "Paul Lieberman", with a long horizontal flourish extending to the right.

Paul I. Lieberman
Assistant General Counsel